

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB -LFG

RIO CHAMA STREAM SYSTEM
Section 1, Chama Mainstream

Subfile No. 194

MOTION FOR SUBSTITUTION OF PARTIES

Pursuant to Fed. R. Civ. P. 25(a)(1), the Plaintiff State of New Mexico, *ex rel.* State Engineer moves the Court to substitute the HEIRS OF BENJAMINE E. SERNA, JANE SERNA, ANNADELLE SANCHEZ and BETTY NORRIS for defendants BEN E. SERNA, JACOBO SERNA, JOSE SERNA, PEDRO E. SERNA and PILAR SERNA in these proceedings with respect to the water rights appurtenant to Tracts 23.22 and 23.22A in Subfile 194 in the Chama Mainstream Section, and in support of this motion states the following:

1. Using the records of the Rio Arriba County Clerk and the Rio Arriba County Assessor's Office, the State has determined that title to various portions of Tracts 23.22 and 23.22A in Section 1 of the Rio Chama Stream System is currently held by Benjamin Serna a/k/a Ben Serna (deceased), Jane Serna, Annadelle Sanchez, Betty Norris and Leopoldo Serna a/k/a Leo Serna. The water rights appurtenant to Tracts 23.22 and 23.22A were described in the subfile order for defendants Ben E. Serna, Jacobo Serna, Jose Serna, Leopoldo Serna, Pedro E. Serna and Pilar Serna filed with

the Court on August 7, 1969 (Doc. No. 107) (Subfile 194).¹

2. Pursuant to the Order filed August 25, 2011 (Doc. No. 10537), the Heirs of Benjamin E. Serna, Jane Serna, Annadelle Sanchez, and Betty Norris should be substituted for Ben E. Serna, Jacobo Serna, Jose Serna, and Pedro E. Serna and Pilar Serna in these proceedings, and served with the Court's notice/order to show cause with respect to the State's proposed priority date for the water rights appurtenant to Tracts 23.22 and 23.22A. Leopoldo Serna (an original subfile defendant) is also a current owner of the a portion of these tracts and should be served with the Court's notice/order to show cause. A proposed form of notice/order to show cause to be served upon the Heirs of Benjamin E. Serna, Jane Serna, Annadelle Sanchez, Betty Norris and Leopoldo Serna will be submitted to the Court for review and approval following substitution of parties.

3. Although the subfile order for defendants Ben E. Serna, Jacobo Serna, Jose Serna, Leopoldo Serna, Pedro E. Serna and Pilar Serna in Subfile 194 filed with the Court did not include the hydrographic survey map and tract information for the lands described in the order, there is no need to correct the original subfile order to include this information. In addition, although Tracts 23.22 and 23.22A have been subdivided and reconfigured since the entry of the original subfile order, it is not necessary for the State to attempt a remapping of the reconfigured tracts. The Hydrographic Survey and Mapping Bureau of the Office of the State Engineer has confirmed that the 20.58 acre

¹ Portions of Tracts 23.22 and 23.22A are currently assessed to "Ben Serna" and to "Benjamin Serna" using an Albuquerque mailing address. The State has been informed that this is the same individual listed on the original subfile order as "Ben E. Serna" and that this individual passed away in 2005. Rebecca Serna, his wife, passed away in 2009. The State has been unable to determine if a personal representative has been appointed to probate their estate. Following a substitution of parties, the State proposes to send a copy of the Court's notice/order to show cause to the mailing address currently listed in the assessment records: 704 Turner NE Albuquerque, NM 87123.

irrigated parcel described in the original subfile order includes both Tract 23.22 (14.77 acre) and Tract 23.22A (5.81 acres) of the State Engineer's hydrographic survey, and that the Benjamin Serna a/k/a Ben Serna, Jane Serna, Annadelle Sanchez, Betty Norris and Leopoldo Serna are the current owners of record of a portion of both of these tracts.

WHEREFORE the State of New Mexico requests the Court to enter its order substituting the Heirs of Benjamin E. Serna, Jane Serna, Annadelle Sanchez and Betty Norris for defendants Ben E. Serna, Jacobo Serna, Jose Serna, Pedro E. Serna and Pilar Serna in these proceedings with respect to the water rights appurtenant to Tract 23.22 and 23.22A in Subfile 194. Leopoldo Serna remains a defendant with respect to these water rights as well.

Respectfully submitted,

/s/ Ed Newville
EDWARD G. NEWVILLE
Special Assistant Attorney General
Office of State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 867-7444 phone
(505) 867-2299 facsimile

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of September 2011 I filed the foregoing electronically through the CM/ECF system which caused the parties listed on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail, and served the following non-CM/ECF Participants in the manner indicated:

via first class mail, postage prepaid addressed as follows:

Benjamin E. Serna
704 Turner NE

Albuquerque, NM 87123

Jane Serna
P.O. Box 482
Española, NM 87532

Annadelle Sanchez
P.O. Box 482
Española, NM 87532

Betty Norris
P.O. Box 482
Española, NM 87532

Leopoldo Serna
P.O. Box 482
Española, NM 87532

/s/ Ed Newville
EDWARD G. NEWVILLE